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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,859	11/26/2003	Scott Peterson	A1133.0001/P0001	9104
7590	04/18/2006			EXAMINER CARRILLO, BIBI SHARIDAN
Keith D. Nowak DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP 41st Floor 1177 Avenue of the Americas New York, NY 10036-2714			ART UNIT 1746	PAPER NUMBER
DATE MAILED: 04/18/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/721,859	PETERSON, SCOTT	
	Examiner	Art Unit	
	Sharidan Carrillo	1746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 February 2006.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 10-12 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 10-12 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>02082006</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franklin Jr. (4792363) and further in view of Berfield (6478342).

In reference to claims 10-12, refer to claims 10-12 of Franklin Jr. et al. Franklin Jr. teaches the invention substantially as claimed with the exception of a swivel cuff between the vacuum source and the vacuum conduit. Berfield teaches a swivel coupling for a hose. Fig. 1 shows a swivel cuff 14 positioned between a vacuum source 16 and a hose 20. The swivel cuff allows the hose to swivel, so the vacuum attachment may be positioned as needed and the hose does not kink during use. In reference to minimizing torque, Berfield teaches the swivel coupling which allows the hose to swivel or rotate during use, thereby minimizing twisting forces and kinks in the hose. In reference to the threaded end for securing the swivel cuff, Berfield in col. 1, lines 35-50,

teaches it is notoriously well known and conventional in the art to use a threaded connection in order to attach the swivel coupling to the hose.

It would have been obvious to a person of ordinary skill in the art to have modified the method of Franklin Jr. to include a swivel coupling of Berfield, for purposes of allowing the hose to swivel or rotate during use, thereby minimizing twisting forces and kinks in the hose during use. It would have been well within the level of the skilled artisan to have modified the method of Franklin to include a threaded connection, as taught by Berfield, which are conventionally used for attachment of the swivel hose coupling to the vacuum hose.

4. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franklin Jr. (4792363) and further in view of Draudt et al. (4625998).

In reference to claims 10-12, refer to claims 10-12 of Franklin Jr. et al. Franklin Jr. teaches the invention substantially as claimed with the exception of a threaded swivel cuff between the vacuum source and the vacuum conduit. Draudt et al. teach a swivel coupling for a hose. Fig. 1 shows a swivel hose coupling 1 attached to a hose 2. The coupling includes a threaded end portion for engagement with the hose (col. 1, lines 59-65). The swivel hose coupling allows the hose to swivel or rotate so that the vacuum attachment may be positioned as needed and the hose does not have to be twisted or kinked during use. In reference to minimizing torque, Draudt teaches the swivel coupling which allows the hose to rotate during use, thereby minimizing twisting forces in the hose.

It would have been obvious to a person of ordinary skill in the art to have modified the method of Franklin Jr. to include a threaded swivel coupling of Draudt, for purposes of allowing the hose to swivel or rotate during use, thereby minimizing twisting forces and kinks in the hose during use.

Response to Arguments

5. The objection to the drawing is withdrawn in view of applicant's arguments and upon careful review of Fig. 1 of the application and Patent 4792363.

6. Applicant argues that one skilled in the art would have no motivation to modify the teachings of Franklin with Berfield or Draudt because such a modification would render the vent cleaning system of Franklin unsatisfactory because the swivel coupling would readily detach itself from the vacuum source at the friction fit . Applicant's arguments are not persuasive because they are not commensurate in scope with the instantly claimed invention. Additionally, both Berfield and Draudt teach a threaded end, not friction fit, for securing the swivel cuff, as previously described above. One would reasonably expect the threaded end fitting to further secure attachment of the swivel coupling to the hose, thereby preventing the detachment of the hose.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharidan Carrillo whose telephone number is 571-272-1297. The examiner can normally be reached on Monday-Friday, 6:00a.m-2:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on 571-272-1414. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sharidan Carrillo
Primary Examiner
Art Unit 1746



SHARIDAN CARRILLO
PRIMARY EXAMINER